IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4792 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DINESHBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR ANSHIN H DESAI for Petitioner No. 1

MS KATHA GAJJAR AGP for Respondents No. 1,3-4

MS KJ BRAHMBHATT for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 28/01/2002

ORAL JUDGEMENT

Heard the learned advocates. With the consent of the learned advocates, the petition is disposed of.

The petitioner-a third party, who claims to be affected by the impugned order dated 7th April/May, 1999, challenges the order on the grounds, inter alia, that the petitioner was not given an opportunity of hearing; that he has been vitally affected; that he has not been impleaded as party respondent, and; that under the guise of the interim order, the entire application has been allowed without application of mind.

A perusal of the impugned order dated 7th April/May, 1999 would reveal that what was undertaken by the State Government was hearing on interim relief, pending revision before the State Government. However, what has actually been done is that the revision application has been finally allowed, setting aside the impugned order of the District Development Officer requiring the applicant, the respondent no. 2 herein, to remove the unauthorised construction made by him. In that view of the matter, the order can not be sustained. The impugned order dated 7th April, 1999 made by the State Government [Additional Chief Secretary (Appeal), Revenue Department] in Revision Application No. 2 of 1999 [Annexure-A to the petition] is quashed and set-aside. The Revision Application No. 2 of 1999 is remanded to the State Government for hearing and decision afresh. The State Government shall afford an opportunity of hearing to the present petitioner also. The applicant-respondent no. 2 may approach the State Government for interim protection, pending revision application.

The petition is allowed in above terms. Rule is made absolute to that extent. The parties shall bear their own costs.

[Ms. R.M Doshit, J.]